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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/650,004

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EXAMINER

THOMASSON, MEAGAN J

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

ED

<b>Office Action Summary</b>	<b>Application No.</b> 10/650,004	<b>Applicant(s)</b> GAZDIC ET AL.	
	<b>Examiner</b> Meagan Thomasson	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 23-25 and 51-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-25, 51-74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

The examiner acknowledges the amendments made to claim 23. Claims 1-22 and 26-50 have been canceled. Claims 23-25 and 51-74 are pending in this application.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**Claims 23-25, 51-57 and 66-74 are rejected under 35 U.S.C. 102(e) as being anticipated by Baerlocher et al. (US 6,666,766 B2).**

Regarding claim 23, Baerlocher discloses a method of conducting a wagering game comprising displaying a plurality of movable objects (Fig. 4, elements **106**), displaying a plurality of possible destinations to which the moveable objects are moveable (Fig. 4, areas **128,130,132,134,136,138** and **140**), defining a plurality of possible different movement patterns for moving the objects to the destinations, the movement patterns including direct movement patterns (Fig. 5A) and evasive movement patterns (Fig. 5B), for a given one of the objects, assigning probabilities to the respective possible movement patterns and selecting one of the possible movement patterns based on the assigned probabilities (Fig. 8, wherein there are multiple paths for moving a given object to a plurality of possible destinations each path having an associated probability of being chosen), and displaying the plurality of objects moving to the plurality of possible destinations in accordance with the respective selected movement patterns, the combination of each moveable object and the associated destination to which the moveable object moves indicating a certain payout award (Fig. 5A-5C, destination indicates associated award). The movement pattern shown in Fig. 5A can be described as a direct movement pattern, as the movable object displays relatively little meandering as it traverses said pattern, as opposed to the movement pattern shown in Fig. 5B, wherein the object displays a relatively large amount of meandering as it traverses the movement pattern of Fig. 5B.

Regarding claim 24, Baerlocher discloses selecting the one of the destinations, such that the assigned probabilities for the given object are determined by the selected destination (Fig. 8, Fig. 11, col. 13, lines 34-47).

Regarding claim 25, Baerlocher discloses the step of selecting the one of the destinations includes randomly selecting the one of the destinations from the plurality of possible destinations (col. 13, lines 1-9).

Regarding claims 51 and 66, in addition to the description of Baerlocher with respect to claim 23, Baerlocher discloses the plurality of movable objects are ostensibly similar (Fig. 4, elements **106**). Further, the different paths assigned by Baerlocher can be described as different behaviors that depend upon the randomly selected outcome. That is, after a destination position is randomly selected, a path (i.e. behavior) that is to be displayed by the object is then chosen.

Regarding claim 52 and 67, Baerlocher discloses each randomly selected outcome is associated with one or more of the possible behaviors (Fig. 8, each award position is associated with a number of paths).

Regarding claim 53 and 68, Baerlocher discloses assigning probabilities to the possible different behaviors depending upon the randomly selected outcome for that object such that the randomly selected outcome determines the assigned probabilities, and assigning the at least one of the plurality of possible different behaviors to the object based on the assigned probabilities (Fig. 8).

Regarding claim 54 and 69, Baerlocher discloses the assigned probabilities for at least two of the randomly selected outcomes are different (Fig. 7).

Regarding claim 55 and 70, please see the rejection of claim 23 above.

Regarding claim 56,71 and 74, the plurality of possible outcomes are respective possible destinations (Fig. 5A-5C, award positions **128-140**).

Regarding claim 57,72 and 73, the moving is free of control of a player of the wagering game. That is, the movement pattern is not selected by a player and is instead selected randomly (col. 13, lines 1-9).

**Claims 58 - 65 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson et al. (US 6,428,412 B1).**

Regarding claim 58, Anderson discloses a method of conducting a wagering game, comprising receiving a wager to play the wagering game, randomly selecting a plurality of outcomes (Fig. 11, wherein the outcomes include the standing or seated position of the objects; col. 5, lines 62-66), defining a plurality of movable objects (characters **70-88**), associating with each object at least one of the plurality of outcomes (Fig. 11, either sitting positions on the bench or standing positions behind the bench), assigning to each object at least one of a plurality of possible first behaviors unrelated to the associated outcome (Fig. 8, objects are shown in a dancing animated state that is unrelated to outcome), assigning to each object at least one of a plurality of possible second behaviors related to the associated outcome (Fig. 11, object will either sit or stand), and moving the moveable objects and displaying the first and second behaviors assigned to the objects (col. 5, line 13 – col. 6, line 22).

Regarding claims 59 and 60, Anderson discloses the plurality of possible first behaviors are idle behaviors and further said idle behavior for each object occurs before the moving of that object in that the objects are shown dancing as they wait for a player to end the animated dancing session by pressing a button (col. 5, lines 13-21). This

behavior is "idle" as it has no impact on the game outcome. Further, the dancing sequence occurs prior to the scene featuring running tiles, i.e. the award sequence of the game.

Regarding claims 61 and 65, Anderson discloses the plurality of outcomes are destinations (either sitting positions on the bench or standing positions behind the bench), and the plurality of possible second behaviors include a plurality of movement patterns for moving the objects to the associated destinations. Specifically, prior to the player pressing the STOP button, the objects are performing idle behaviors in various locations on the screen (Fig. 8). Upon the player pressing the STOP button, the objects are assigned to new positions on the screen and move in order to occupy those new positions (Fig. 9 and Fig. 10). For instance, object **78**, bearing the indicia "A1", is shown as initially occupying a position in the upper right-hand corner of the screen in Fig. 8. After the player presses the STOP button, object **78** exhibits an evasive movement pattern, as it moves down and towards the left-hand side of the screen (Fig. 9), to eventually occupy the seating position in the middle of the bench (shown in Fig. 10). Simultaneously, object **88**, bearing the indicia "H4", is shown in Fig. 8 as initially occupying a position in the mid-right hand portion of the screen. Upon the player pressing the STOP button, object **88** exhibits more direct movement pattern in order to eventually reach the seated position at the right-hand side of the bench (Fig. 10). Thus, some movement patterns exhibited by the objects are relatively more evasive than others.

Regarding claim 62, the plurality of outcomes are associated with respective payouts in that only figures in the seated positions on the bench may be used to obtain a bonus award (Fig. 12).

Regarding claims 63 and 64, assigning to each object at least one of the plurality of possible second behaviors, i.e. movement patterns displayed by the object, includes assigning probabilities to the possible second behaviors depending upon the associated outcome for that object such that the associated outcome determines the assigned probabilities, and assigning the at least one of the plurality of possible second behaviors based on the assigned probabilities. Specifically, the objects dance around the screen until the player presses the STOP button at which time the objects move in a pattern to a final destination. The movement pattern consists of the direction of movement displayed by an object in running from their position at the time the STOP button was pressed to their associated outcome destination. Thus, there is some probability that the object will move in either a relatively evasive or relatively direct pattern based on their initial random location at the time the STOP button is pressed and their assigned destination. For instance, again referring to Fig. 8 wherein object **78** is initially located in the upper right-hand area of the screen and **88** is initially located in the mid-right hand area of the screen, in the time period immediately before the STOP button is pressed, because object **88** has been assigned a seated position at the far right hand side of the bench, which is directly below it's initial position, object **88** has a higher probability of being assigned a direct movement pattern than object **78** which must move in an evasive pattern in order to take it's assigned seated position in the middle of the bench..



### ***Response to Arguments***

Applicant's arguments with respect to claims 23-25 and 51-74 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pertinent prior art includes: Bennett et al., WO 00/32286, drawn to a gaming machine featuring an animated object that exhibits first and second behaviors, including movement patterns.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3714

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan Thomasson whose telephone number is (571) 272-2080. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Meagan Thomasson  
August 7, 2007



**XUAN M. THAI**  
**SUPERVISORY PATENT EXAMINER**

TC 3700